

In the Matter of Merchant Mariner's Document No. DZ1003280 and all
Issued to: Efrain Anglero

DECISION OF THE COMMANDANT
UNITED STATES COAST GUARD

1253

Efrain Anglero

This appeal has been taken in accordance with Title 46 United States Code 239b and Title 46 Code of Federal Regulations 137.11-1.

By order dated 16 August 1960, an Examiner of the United States Coast Guard at New York, New York revoked Appellant's seaman documents upon finding him guilty of the charge of "conviction for a narcotic drug law violation." The two specifications found proved allege that, on or about 29 November 1955 and 1 February 1957, Appellant was convicted by the Court of Special Sessions of the City of New York, County of New York, a court of record, for violations of the narcotic drug laws of the State of New York (attempt to unlawfully possess and control a narcotic drug, and unlawful possession and control of a narcotic drug, respectively).

At the hearing, Appellant was represented by counsel. Appellant entered pleas of guilty to the charge and both specifications.

The Investigating Officer introduced documentary evidence proving the convictions alleged. Appellant testified that he has not used narcotics since his last conviction on 1 February 1957. Counsel stated that Appellant has been rehabilitated to the use of narcotics.

The Examiner concluded that the charge and two specifications had been proved by plea. He then entered the order revoking all documents issued to Appellant.

On appeal, it is contended that since the laws of New York make no distinction between a user and possessor of narcotics, the matter as to whether Appellant has been cured from the use of narcotics should be considered because the record shows that Appellant was really convicted as the result of being a user.

OPINION

Commandant's Appeal Decision No. 1092 states that the defense of cure is not relevant to these proceedings unless the conviction was for the use of, or addiction to, narcotics. Appellant was convicted for possession and control of narcotic drug, and the attempt to possess and control a narcotic drug. Therefore, evidence of cure does not affect the outcome regardless of whether the

New York laws distinguish between a user and possession of narcotics. The convictions alleged and proved are conclusive for the purpose of this action.

ORDER

The order of the Examiner dated at New York, New York, on 16 August 1960, is AFFIRMED.

J. A. Hirshfield
Vice Admiral, United States Coast Guard
Acting Commandant

Dated at Washington, D.C., this 27th day of June 1961.